

Remarks

The Office Action dated September 26, 2006 and made final has been carefully reviewed and the foregoing amendments are submitted in consequence thereof.

Claims 47-87 are now pending in the present application, of which claims 47, 48, 50, 60, 61, 62, 71, 73 and 74 have been amended. It is respectfully submitted that the pending claims define allowable subject matter.

A. Drawing Objections.

The objection to the drawings is respectfully traversed. The drawings were objected to for not showing certain features of the invention as claimed, but Applicants respectfully submit that the noted features are illustrated in the drawings.

1. Two Spaced Arms

Applicants previously pointed out that Figures 8 and 9 illustrate two arm portions (110) arranged side-by-side as recited in claim 51. In the Response to Arguments Section of the Final Office Action it is acknowledged that the embodiment of Figs. 8-11 includes two spaced arms, but it is asserted in the Final Office Action that the claimed embodiment illustrated in Figures 12-16 is "clearly separate and it is impossible to provide such two spaced arms in the Figs. 8-11 on the embodiment of Figs. 12-16." See Final Office Action dated September 26, 2006 page 7, paragraph 14.

In response, it is respectfully submitted that there is no authority for the proposition that certain claims refer to certain embodiments to the exclusion of other embodiments in the application. Thus, the assertion that the presently claimed invention should be examined solely with respect to the embodiment depicted in Figures 12-16 while disregarding the remaining Figures is respectfully traversed and is not believed to be supported by the applicable law or the present prosecution history. The basis for the objection to the drawings is 37 C.F.R. § 1.83(a) which states only that the drawings must show every feature specified in the claims. The application as filed clearly meets this requirement because two arm portions are illustrated in

Figures 8 and 9. Rule 1.83(a) does not require that the claim features be shown in a single drawing or in a single embodiment of an invention in the Figures of an application.

Additionally, the assertion that “it is impossible to provide such two spaced arms in the Figs: 8-11 on the embodiment of Figs. 12-16” is respectfully traversed. This notion is not consistent with Applicants’ own teaching in the specification and the understanding thereof to those in the art. The specification clearly teaches interchangeability of certain features of the embodiments disclosed in the specification. Specifically, Applicants note that Figs. 12-16 do not illustrate the handle assembly coupled to a towing arm. It is believed to be clear from the specification that either the towing arm structure of Figure 1 in the first embodiment, or the towing arm structure of Figures 8-11 may be used with the handle assembly of Figs. 12-16.

For example, on page 26, beginning on line 28, the specification contemplates (with emphasis added), in reference to the embodiment of Figs. 12-16 that:

As assembled above, the towing handle 200 and connector 202 of the third embodiment are then attached to the distal end of the arm portion (not shown) of the towing member that is preferably *of the type described in reference to the first embodiment of the towing member*.

On page 15, beginning on line 21, the specification clearly contemplates (with emphasis added), in reference to the second embodiment of Figs. 8-11 that:

As shown in FIGS. 8-11, the arm portion 102 of the towing member 100 of the second embodiment is preferably a curved telescoping member *much like the arm portion 24 of the first embodiment*. However, unlike the arm portion 24 of the first embodiment, the arm portion 102 of the second embodiment is preferably a dual-pole member that slides into and out of a single receptacle (not shown) within the piece of baggage. The arm portion 102 has a length with a proximal end (not shown) that is slidably engaged with the piece of baggage and an opposite distal end 108 that can be retracted toward and extended away from the piece of baggage. A pair of spaced apart tubular members 110 formed of aluminum, steel, or other suitably strong materials connect the proximal end of the arm portion 102 to the distal end 108 of the arm portion.

The specification therefore clearly discloses that the arm structure of Figs. 8-11 is an alternative to the arm structure of Figs. 1 and 2. Indeed, on page 15, beginning on line 17, the specification clearly contemplates that:

Although not shown in the Figures, the towing member 100 of the second embodiment, is configured to be attached to a piece of towable baggage in a

manner similar to the towing member 20 of the first embodiment. Thus, in describing the second embodiment, details of how the towing member is attached to the piece of baggage are not explicitly provided.

In light of at least these portions of the specification, it is believed to be apparent that the handle assembly of Figs. 12-16 is useable with either the towing arm structure of Figs. 1 and 2 or the towing arm structure of Figs. 8-11. Moreover, it is believed to be apparent to those in the art that the handle assembly of Figs. 12-16 may be rather easily applied to the towing arm 100 of Figures 8-11 with a straightforward modification of the connector 202 in Figs. 12-16 to receive the spaced apart members 110 shown in Figures 8-11.

For the reasons set forth above, it is submitted that those in the art would not consider it to be “impossible” that the handle assembly of Figures 12-16 could be used with the towing arm structure of Figs. 8-11, but rather those in the art would consider the arm structure of Figs. 8-11 and the arm structure shown in Figs. 1 and 2 to be interchangeable with the exercise of ordinary skill. Applicants therefore request reconsideration of the drawing rejection relating to the spaced arms.

2. The Base and Wheel Wells

Applicants previously pointed out that the rigid base having a bottom portion and a pair of wheel wells as recited in claim 60 and 73 is illustrated in Figures 1 and 2. While Applicants disagree that the wheel wells are not shown, Applicants have amended claims 60 and 73 for clarity and such amendments are believed to render the issue moot.

Applicants therefore request that the rejection to the drawings based upon the wheel wells be reconsidered and withdrawn.

3. The Handle Mount

Applicants previously pointed out that a handle fixedly mounted to a distal end of an arm along an axis extending perpendicular to a center axis of the arm while being configured to pivot about the center axis, as recited in claim 61, is depicted in Figures 1-6 and 12-16. For the reasons explained in Part A1 above with respect to the spaced arms, the specification clearly contemplates that the embodiments of Figs 12-16 be mounted on the arm shown in Figs. 1 and 2.

When so mounted, the recitations of claim 61 are satisfied. The fixed mount of the handle to the distal end of the arm along an axis extending perpendicular to the a center axis of the arm is in direct contrast to the arrangement illustrated in Figures 8-11 of the present application wherein the handle is freely pivotal about both a vertical center axis and a horizontal axis perpendicular to the center axis as shown in Figure 8. Fixing the handle along the horizontal axis extending perpendicular to the vertical center axis precludes the multi-axis pivoting disclosed and described in relation to Figures 8-11. This is believed to be clear in light of the teaching of the specification and from the language of the claims.

Applicants again note that 37 C.F.R. § 1.83(a) states only that the drawings must show every feature specified in the claims. Rule 1.83(a) does not require that the claim features be shown in a single drawing or in a single embodiment of an invention in the Figures of an application. Applicants respectfully submit that there is no authority for the proposition that all claimed feature must be shown in certain embodiments to the exclusion of other embodiments in the application. Considered as a whole, the specification clearly teaches and clearly illustrates all of the recitations of the claims in full accord with 37 C.F.R. § 1.83(a).

Applicants accordingly request reconsideration and withdrawal of the objection to the drawings relating to the mounting of the handle.

B. The § 112 Rejections

Applicants will now address the § 112 Rejections, which are believed to be overcome as explained below.

1. Claims 61-73 and 87.

The rejection of claims 61-73 and 87 under 35 U.S.C. § 112, second paragraph is respectfully traversed.

The Final Office Action states that is unclear what comprises the slot and the locking protrusion in claim 61. Claim 61 has according been amended for clarity and is believed to satisfy § 112, first paragraph.

Claim 71 has also been amended to more clearly define the invention over claim 61 and is believed to satisfy the requirements of § 112, paragraph 2.

Claims 62-70, 72-73 and 87 are believed to satisfy § 112, paragraph 1 by virtue of the amendments to claim 61.

Applicants therefore request that the § 112, first paragraph rejection of claims 61-73 and 87 be reconsidered and withdrawn.

2. Claims 51, 60, 65, 73, 77 and 86-87.

The rejections of claims 51, 60, 65, 73, 77 and 86-87 under 35 U.S.C. § 112, first paragraph is respectfully traversed.

The Final Office Action states that “this is a new matter rejection”. Applicants note that, as a matter of procedure, § 112, paragraph 1 applies to the *disclosure* and not to the claims. Likewise, 35 U.S.C. § 132 states that no amendment may introduce new matter into the *disclosure*. Thus, when properly applied, § 112, paragraph 1 and new matter rejections under § 132 are to be directed to the specification and not to the claims. No amendments have been made to the specification that would implicate the provisions of § 112, paragraph 1 and/or the provisions of § 132. The rejection of claims 51, 60, 65, 73, 77 and 86-87 under § 112, paragraph 1 is therefore procedurally improper and should be withdrawn.

Notwithstanding the above, this rejection appears to be related to the drawing objections addressed above and the perception that certain features have not been illustrated. For the reasons set forth above, the specification and drawings do teach the recitations of the claims mentioned in the Final Office Action in paragraph 3, namely the spaced apart arms and the rigid base with wheels. The claims associated with such features are therefore fully supported by the specification and drawings. Thus, the subject matter recited in the noted claims are fully disclosed in a way to convey that the inventors had complete possession of the claimed invention at the time the application was filed. Section 112, paragraph 1 is therefore fully satisfied.

C. The Prior Art Rejections

Applicants will now consider the prior art rejections in the order set forth in the Office Action.

1. Lu '344

The rejection of claims 47-48, 52-59, 61, 66-72 and 74-87 under 35 U.S.C. § 102(e) as being anticipated by Lu (U.S. Patent No. 6,508,344) is respectfully traversed.

a. The 1.132 Declaration Evidence Disqualifying Lu '344 as Prior Art

Applicants have noted that evidence has been submitted that the inventor of the Lu '344 patent was associated with the present Applicants and learned of Applicants' invention from Applicants and that the Lu '344 disclosure is a description of Applicants' own prior work, as established by the Declaration dated July 14, 2005 that has been submitted under 37 C.F.R. § 1.132. The 1.132 submissions is directly authorized in M.P.E.P § 2136.05, and the requirements thereof are believed to be met to disqualify the Lu '344 reference as prior art to the present application.

On page 8 of the Final Office Action it is noted that the declaration is ineffective with respect to the Lu '377 reference. As no Lu '377 reference has been made of record, Applicants assume that the Examiner intended to refer to the Lu '344 reference instead of Lu '377.

On page 8 of the Final Office Action it is asserted that the declaration appendices fail to show the locking structure shown in Lu '459 or Lu '344. The Final Office Action further states that the examiner cannot determine similarities in the absence of locking structures.

In response, Applicants note that the declaration is submitted as evidence that the invention disclosed in Lu '344 is a description of previous work of the Applicants. To that end, paragraphs 10-15 of the declaration explain that the invention was conceived, reduced to practice, and communicated to Lien Cheng Lu in contemplation of a potential manufacturing agreement as explained in paragraphs 16 and 17 of the declaration, and the Appendices A-C are believe to adequately document the conception and reduction to practice prior to the communication to Lu. The declaration appendices clearly contemplate the locking mechanism.

While the Examiner contends that similarities cannot be determined between declaration appendices A-C and the Lu '344 patent, the similarities in shape, form, and function of the handle of the Lu '344 patent and the handle shown in Appendices A-C are manifest, and are not coincidental.

Paragraphs 20 and 21 of the declaration clearly state the subject matter describing the claimed invention was not the invention of Lien Chieng Lu because Lien Chieng Lu copied such subject matter from the named inventors of the present application. This includes the locking mechanism presently being claimed. M.P.E.P § 716.10 provides that an uncontradicted, unequivocal statement in a 1.132 submission that the Applicants invented the subject matter disclosed in a reference will be accepted as establishing inventorship. The position taken in the Final Office Action, however, appears to question the statement of inventorship in the declaration, and in Applicant's view unreasonably so. Absent some evidence to contradict the 1.132 declaration, which the Examiner has not supplied, the Office should accept the 1.132 declaration.

There is no apparent reason or basis for the Examiner to question the accuracy of any statement in the declaration or the content of the associated evidence. Applicants respectfully request that if the examiner is aware of any information or evidence that calls the factual assertions of the declaration into question that such information or evidence included in the next communication for Applicant's consideration and reply. Otherwise the declaration should be accepted and any rejection that relies on Lu '344 should be withdrawn. The factual evidence submitted with the declaration amply demonstrates that the invention disclosed in the Lu' 344 is prior work of one of the inventors for the present application and is therefore not prior art that can be cited against the claims.

Having established the requirements of a submission under rule 1.132 Applicants have disqualified the Lu '344 patent as prior art that may be cited against the claims, and Applicants accordingly request that the rejection of claims 47-59, 61-72 and 74-87 that rely upon the Lu '344 reference be reconsidered and withdrawn.

b. The 1.131 Evidence Disqualifying Lu as Prior Art

As the Examiner is aware, Applicants also note that evidence has been submitted in a related application to the present application that Lu '344 disqualifies as prior art because of an actual reduction to practice of the invention disclosed by Lu '344 before the filing date of the Lu '344 reference. Specifically, the evidence has been submitted in Application Serial No. 10/238,390 under Rule 1.131 and establishes another basis for disqualifying the Lu '344 reference as prior art. The 1.132 evidence is believed to be equally applicable to the present application, and Applicants would be glad to supply a courtesy copy of this evidence in the present case if the Examiner deems it to be necessary.

c. Lu '344 does not anticipate the present claims.

Notwithstanding the above, Applicants note that Lu '344 does not meet the recitations of the presently pending claims, and Lu '344 is not an anticipating reference.

Applicants note the following with respect to the applicable law of anticipation. As explained by the Federal Circuit, a rejection on the ground of "anticipation" requires a disclosure in a single piece of prior art of each and every limitation of a claimed invention. A finding of anticipation requires that the publication describe all of the elements of the claims arranged as in the patented device. In other words, to anticipate, a single reference must teach every limitation of the claimed invention. In light of this standard, the Lu '344 reference is deficient as an anticipating reference.

For example, claim 47 recites a towing handle pivotally connected to a distal end of an arm, the towing handle configured to pivot about the center axis at the distal end of the arm and otherwise unable to move relative to the distal end. The Lu '344 handle, as shown in Figures 5 and 6, is pivotal about a first center axis (6) shown in Figure 5, *and* is movable about a second axis extending perpendicular to the axis (6) as shown in Figure 6. The movement shown in Figure 6 is expressly precluded by the language of claim 47.

Claim 47 also recites that the arm is "curved outwardly away from the piece of baggage when in the extended position so that the distal end is laterally spaced a further distance

measured from a center axis of the piece of baggage than the proximal end.” Lu ‘344 does not disclose that the pulling bars (11) are curved in such a manner. Claim 47 is therefore clearly not anticipated by Lu ‘344 and claim 47 is submitted to be patentable over Lu ‘344.

Claims 48, 52-59 and 86 depend from claim 47, and when the recitations of claims 48-48, 52-59 and 86 are considered in combination with the recitations of claim 47, claims 48-48, 52-59 are likewise submitted to be patentable over Lu ‘344.

Likewise, claim 61 recites the towing handle “fixedly mounted to the distal end along an axis extending generally perpendicular to the center axis while being configured to pivot generally about the center axis at the distal end of the arm.” Lu ‘344 is not fixedly mounted along an axis perpendicular to the center axis of the bars (11), but rather is movable about the perpendicular axis as illustrated in Figure 6. Claim 61 is therefore not anticipated by Lu ‘344.

Claims 66-72 and 87 depend from claim 61, and when the recitations of claims 66-72 and 87 are considered in combination with the recitations of claim 61, claims 66-72 and 87 are likewise submitted to be patentable over Lu ‘344.

Claim 74 recites “at least one curved arm slideably received within the non-extendable portion and movable relative to the non-extendable portion along a curved telescoping path between a retracted position and an extended position.” Lu ‘344 does not disclose that the bars (11) movable along a curved telescoping path, and claim 74 is not anticipated by Lu ‘344.

Claims 75-85 depend from claim 74, and when the recitations of claims 75-85 are considered in combination with the recitations of claim 74, claims 75-85 are likewise submitted to be patentable over Lu ‘344.

Applicants accordingly request that the rejection of claims 47-48, 52-59, 61, 66-72 and 74-87 be withdrawn.

2. Lu ‘344 in view of Myoshi

The rejection of claims 47-59, 61-72 and 74-87 under 35 U.S.C. § 103(a) as being unpatentable over Lu ‘344 in view of Miyoshi (U.S. Patent No. 5,908,093) is respectfully traversed.

Preliminarily, Applicant submits that Lu '344 has been properly disqualified as prior art that can be used to reject the claims, and any rejection relying upon Lu '344 is accordingly overcome as a procedural matter.

Notwithstanding the above, Applicant submits that the presently claimed invention is not obvious over Lu '344 in view of Myoshi. Applicants note the following with respect to the law of obviousness. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). "It is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). See also, Smithkline Diagnostics, Inc. v. Helena Laboratories, Corp., 8 USPQ2d 1468, 1475 (Fed. Cir. 1988) ("claims, entire prior art, and prior art patents must be read 'as a whole'"). If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990).

Claims 48-59 depend from claim 47, submitted to be patentable over Lu '344 for the reasons set forth above. Miyoshi does not cure the deficiencies of Lu '344 with respect to claim 47. In fact, Miyoshi does not disclose a handle movable in any way relative to a distal end of an arm, and adds nothing to the teaching of Lu '344 on this aspect of the invention.

Additionally, claim 47 recites that the arm is "curved outwardly away from the piece of baggage when in the extended position so that the distal end is laterally spaced a further distance measured from a center axis of the piece of baggage than the proximal end." Myoshi teaches away from the claimed arm by describing a structure opposite to that presently claimed. That is, the distal end of the arms disclosed by Myoshi are closer to the center axis of the baggage when in the extended position than the proximal ends of the arms. Myoshi teaches that the construction of the arms is significant in that the curvature of the arms will not interfere with

placement of items in the interior of the bag and the curvature of the arms allows for easier towing of the bag.

The combination of Lu'344 and Myoshi therefore collectively fail to teach all of the recitations of claim 47, and claim 47 is accordingly submitted to be patentable over Lu '344 in view of Miyoshi. When the recitations of claim 48-59 and 86 are considered in combination with the recitations of claim 47, claims 48-59 and 86 are likewise submitted to be patentable over Lu '344 in view of Myoshi.

Claims 62-72 depend from claim 61, submitted to be patentable over Lu '344 for the reasons set forth above. Miyoshi does not cure the deficiencies of Lu '344 with respect to claim 61. As noted above, Miyoshi does not disclose a handle movable in any way relative to a distal end of an arm and is therefore submitted to add nothing to the teaching of Lu '344 with respect to claim 61. The references therefore collectively fail to teach all of the recitations of claim 61 and claim 61 is accordingly submitted to be patentable over Lu '344 in view of Myoshi. When the recitations of claim 62-72 and 87 are considered in combination with the recitations of claim 61, claims 62-72 and 87 are likewise submitted to be patentable over Lu'344 in view of Myoshi.

Claim 74 recites "at least one curved arm slideably received within the non-extendable portion and movable relative to the non-extendable portion along a curved telescoping path between a retracted position and an extended position" and "the towing handle being positioned forward of the base and not positioned over the base when the at least one arm is in the extended position." Neither Lu '344 nor Myoshi disclose or suggest a towing handle being positioned forward of the base and not positioned over the base when the at least one arm is in the extended position. Lu does not disclosed arms curved in the manner claimed at all, and Myoshi teaches away from what is claimed. That is, Myoshi teaches that the handle grip is placed at the middle of the bag between the left and right sides of the bag, and hence clearly over the base of the bag when the arms are extended. It is again noted that Myoshi teaches that the position of the handle between the left and right sides of the bag is significant and beneficial. The recitations of claim 47 are therefore not obvious over the combination of Lu '344 and Myoshi.

Claims 75-85 depend from claim 74, and when the recitations of claims 75-85 are considered in combination with the recitations of claim 74, claims 75-85 are likewise submitted to be patentable over Lu '344.

Applicants accordingly request that the § 103(a) rejection of claims 47-59, 61-72 and 74-87 be withdrawn.

3. Lu '344 in view of either Tsai or Hung-Hsin

The rejection of claims 60 and 73 under 35 U.S.C. § 103(a) as being unpatentable over Lu '344 in view of either Tsai (U.S. Patent No. 5,524,920) or Hung-Hsin (5,374,073) is respectfully traversed.

Preliminarily, Applicant submits that Lu '344 has been properly disqualified as prior art that can be used to reject the claims, and any rejection relying upon Lu '344 is accordingly overcome as a matter of procedure.

Notwithstanding the above, Applicant submits that the presently claimed invention is not obvious over Lu '344 in view of either Tsai and Hung-Hsin.

Claim 60 depends from claim 47, submitted to be patentable over Lu '344 for the reasons set forth above. Tsai and/or Hung-Hsin do not cure the deficiencies of Lu '344 with respect to claim 47. In fact, neither Tsai nor Hung-Hsin discloses a handle movable in any way relative to a distal end of an arm, and neither Tsai nor Hung-Hsin teach a curved arm as recited in claim 47. Tsai and Hung-Hsin therefore add nothing to the teaching of Lu '344 relating to the claimed invention and Lu '344, Tsai and Hung-Hsin therefore collectively fail to teach all of the recitations of claim 47.

Claim 47 is accordingly submitted to be patentable over Lu '344 in view of either Tsai or Hung-Hsin. When the recitations of claim 60 are considered in combination with the recitations of claim 47, claim 60 is likewise submitted to be patentable over Lu '344 in view of either Tsai or Hung-Hsin.

Claim 73 depends from claim 61, submitted to be patentable over Lu '344 for the reasons set forth above. Tsai and/or Hung-Hsin do not cure the deficiencies of Lu '344 with respect to

claim 61. As noted above, neither Tsai nor Hung-Hsin discloses a handle movable in any way relative to a distal end of an arm, and consequently neither Tsai nor Hung-Hsin adds to the teaching of Lu '344 with respect to claim 61. Lu '344, Tsai and Hung-Hsin collectively fail to teach all of the recitations of claim 61 and claim 61 is accordingly submitted to be patentable over Lu '344 in view of either Tsai or Hung-Hsin. When the recitations of claim 73 are considered in combination with the recitations of claim 61, claim 73 is likewise submitted to be patentable over Lu '344 in view of either Tsai or Hung-Hsin.

Applicants accordingly request that the § 103(a) rejection of claims 60 and 73 be withdrawn.

4. Kim

The rejection of claims 47, 52, 54, 56, 57, and 59 under 35 U.S.C. § 102(e) as being anticipated by Kim (U.S. Patent No. 6,182,983) is respectfully traversed.

The Office Action cites element (520) of Kim as being a “pivotally retractable”, but this is simply not correct. Element (520) in Kim represents a guide pipe that is neither extendable nor retractable relative to the bag. The guide pipe (520) has one end secured in a fastening block (518) and (519) which secures the guide pipe (520) to a angle adjusting assembly (510). The guide pipe (520) pivots at the angle adjusting assembly (510).

The Final Office Action in paragraph 7 states that a distal end of the of the pipe (520) would be farther away from the bag when in an extended position. Applicant has amended claim 47 to clarify that the distal end of the arm is a closer distance *measured along the center axis of the arm* to the piece of baggage when the arm is in the retracted position than when the arm is in the extended position. The pipe (520) is fixed in length and its distal end measured along the axis of the arm is a constant distance from the bag in all positions when connected to the bag. The pipe (520) simply does not meet the recitations of claim 47 in this regard.

Kim discloses a length adjusting instrument (540) and bar (530), but these are connected to the pipe (520) which has been identified in the Office Action as an extendable element. Claim 47 recites that the arm is connected to a non-extendable portion.

Independent claims 47 also recites a towing handle pivotally connected to the distal end of the arm. Kim, however, discloses a handle (532) that is securely mounted at a set screw (see the cross-section in Figure 16) to a bar (530). The handle (532) is not connected to the distal end of the arm (520). Also, in the Office Action, element (540) of Kim is cited with respect to the “pivot mechanism.” The element (540) in Kim, however, does not pivotally connect any two structures to one another. The element (540) represents a length adjusting instrument for fixing the length adjusting bar (530) to the guide pipe (520). The length adjustment instrument (540) does not “pivotally” connect the towing handle to a distal end of an arm as presently recited in claim 47.

Further, Kim does not teach the curved arm recited in claims 47 and does not teach the locking mechanism recited in claim 47. The length adjusting instrument (540) of Kim does not prevent pivot of the towing handle relative to the distal end when in a locked position, nor permit pivoting of the towing handle relative to the distal end of the arm when in the unlocked position. When the length adjustment member is loosened, the bar (530) slides within pipe (520) to shorten or lengthen the combination of the pipe (520) and bar (530). The length adjusting instrument (540) does meet the recitations of the claims.

Claim 47 is therefore submitted to be patentable over Kim, and when the dependent claims 52, 54, 56, 57, and 59 are considered in combination with the independent claims 47, claims 52, 54, 56, 57, and 59 are likewise submitted to be patentable.

Applicants accordingly request that the § 102(e) rejection of claims 47, 52, 54, 56, 57, and 59 be withdrawn.

5. Chen

The rejection of claims 61, 66-70 and 72 under 35 U.S.C. § 102(e) as being anticipated by Chen (U.S. Patent No. 6,591,951) is respectfully traversed.

Claim 61 has been amended for clarity and now recites, among other recitations that “the locking mechanism comprises a movable locking element and a connector mounted stationary to the distal end, the locking element having a flat body defining a slot-therethrough and the

connector including a locking post extending through the slot in a direction parallel to the axis extending generally perpendicular to the center axis.”

The Final Office Action cites a retaining hole (442) of the Chen locating seat (44) as the claimed locking element. A shaft (41) cooperates with the hole (442) as described by Chen, but the shaft (41) extends in a direction parallel to the axis of the arm (20), and not in a direction perpendicular to the center axis of the arm as claim 61 recites. Chen neither discloses nor suggests a locking element and post as recited in claim 61.

Claim 61 is therefore submitted to be patentable over Chen. Dependent claims 66-70 and 72, when considered in combination with claim 61, are likewise submitted to be patentable over Chen.

Applicants accordingly request that the § 102(e) rejection of claims 61, 66-70 and 72 be withdrawn.

6. Lu ‘459 or Lu ‘459 in view of Myoshi

The rejection of claims 47, 48, 49-52, 54-57, 59, 61, 66-72, 74, 86 and 87 under 35 U.S.C. § 102(e) as being anticipated by Lu (U.S. Patent No. 6,530,459) or alternatively 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Miyoshi as set forth in paragraphs 9-11 of the Final Office Action is respectfully traversed.

Preliminarily, the reference to Lu ‘344 in paragraph 11 of the Final Office Action is believed to be a typographical error in light of the rejections made over Lu’344 in view of Myoshi in paragraph 5, and further in light of paragraph 13. It is assumed for purposes of this response that Lu’549 was intended to be cited instead of Lu ‘344 in paragraph 11 of the Final Office Action.

Claim 47 recites that the arm is curved outwardly away from the piece of baggage when in the extended position. This is not disclosed by Lu ‘459 and claim 47 is therefore not anticipated by Lu ‘459. In the Final Office Action, in paragraph 10, it is asserted that the arms in Lu ‘459 are curved with respect to their circumference. While Applicant disagrees that a curved circumference reasonably correlates to the claimed language, Applicant has clarified claim 47 to

recite that the *axial length* of the arm is curved outwardly away from the piece of baggage when in the extended position. Lu '459 includes no disclosure of the arms being curved along their axial length as claim 47 recites, and claim 47 is not anticipated by Lu '459.

Miyoshi discloses a curved pole construction, described above, that is essentially opposite to the recited in claim 47, and Miyoshi therefore teaches away from the invention. Claim 47 is therefore not obvious over Lu '459 in view of Miyoshi.

Claim 47 is submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi. When the recitations of dependent claims 48, 49, 52, 54-57, 59 and 87 are considered in combination with the recitations of claim 47, claims 48, 49, 52, 54-57, 59 and 87 are likewise submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi.

Claim 61 recites, among other recitations that "the locking mechanism comprises a movable locking element and a connector mounted stationary to the distal end, the locking element having a flat body defining a slot-therethrough and the-connector including a locking post extending through the slot in a direction parallel to the axis extending generally perpendicular to the center axis, the movable locking element being movable toward and away from the locking protrusion to lock and unlock the mechanism." Lu '459 discloses no such structure.

Lu '459 discloses an anchor seat (70) having an upper seat (71) and lower seat (72) mounted stationary to the pulling bars (11). The upper seat (71) defines slots (712) and (713) that receive a push stem (50) in different positions. The upper seat (71) is not movable while the push stem (50) is. The push stem (50) is movable with respect the slots (712) and (713). The movable push stem is not, however, movable toward and away a locking protrusion to lock and unlock the mechanism as claim 61 recites. Rather the push stem is effectively a movable protrusion in the handle construction of Lu '459. This is clearly different from the invention of claim 61, and claim 61 is not anticipated by Lu '459.

Moreover, Miyoshi does not disclose a pivotal handle or a locking mechanism therefor, and accordingly adds nothing to the teaching of Lu '459 with respect to the invention of claim 61. The combination of Lu '459 and Miyoshi collectively fail to teach or suggest the locking

element and locking mechanism recited in claim 61 and claim 61 is not obvious over Lu '459 in view of Miyoshi.

Claim 61 is therefore submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi. When the recitations of dependent claims 63-72 and 87 are considered in combination with the recitations of claim 61, claims 63-72, 86 and 87 are likewise submitted to be patentable over Lu '459 or alternatively Lu '459 in view of Miyoshi.

Claim 74 recites "at least one curved arm slideably received within the non-extendable portion and movable relative to the non-extendable portion along a curved telescoping path between a retracted position and an extended position" and "the towing handle being positioned forward of the base and not positioned over the base when the at least one arm is in the extended position." Neither Lu '344 nor Myoshi disclose or suggest a towing handle being positioned forward of the base and not positioned over the base when the at least one arm is in the extended position. Lu does not disclosed arms curved in the manner claimed at all, and Myoshi teaches away from what is claimed. That is, Myoshi teaches that the handle grip is placed at the middle of the bag between the left and right sides of the bag, and hence clearly over the base of the bag when the arms are extended. It is again noted that Myoshi teaches that the position of the handle between the left and right sides of the bag is significant and beneficial. The recitations of claim 47 are therefore not obvious over the combination of Lu '344 and Myoshi.

Applicants accordingly request that the § 102(e) rejection or alternative §103(a) rejection of claims 47, 48, 49-52, 54-57, 59, 61, 63-72, 74, 86 and 87 be withdrawn.

7. Lu '459 in view of Scicluna

The rejection of claims 53 under 35 U.S.C. § 103(a) as being unpatentable over Lu '459 in view of Myoshi and Scicluna (U.S. Patent No. 5,984,154) is respectfully traversed.

Claim 53 depends from claim 47, submitted to be patentable over Lu '459 and Myoshi for the reasons set forth above. Scicluna does not cure the deficiencies of Lu '459 and Myoshi with respect to the present invention, and notably does not disclose a curved arm as recited in claim 47. The references therefore collectively fail to teach all of the recitations of claim 47, and

claim 47 is accordingly patentable over Lu '459 in view of Scicluna. When the recitations of claim 53 are considered in combination with the recitations of claim 47, claim 53 is likewise submitted to be patentable over Lu '459 in view of Scicluna.

Applicants accordingly request that the rejection of claim 53 be withdrawn.

8. Lu '459 in view Myoshi and Tsai or Hung-Hsin

The rejection of claims 60 and 73 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Myoshi and Tsai or Hung-Hsin is respectfully traversed.

Claim 60 depends from claim 47, submitted to be patentable over Lu '459 and Myoshi for the reasons set forth above. Neither Tsai nor Hung-Hsin cure the deficiencies of Lu '459 and Myoshi with respect to the invention of claim 47, and notably neither of Tsai and Hung-Hsin discloses a curved arm as recited in claim 47. The references therefore collectively fail to teach all of the recitations of claim 47, and claim 47 is accordingly patentable over Lu '459 in view of Tsai or Hung-Hsin. When the recitations of claim 60 are considered in combination with the recitations of claim 47, claim 60 is likewise submitted to be patentable over Lu '459 and Myoshi in view of Tsai or Hung-Hsin.

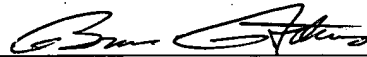
Claim 73 depends from claim 61, submitted to be patentable over Lu '459 and Myoshi for the reasons set forth above. Neither Tsai nor Hung-Hsin cure the deficiencies of Lu '459 with respect to the invention of claim 61. Like Lu '549, neither of Tsai and Hung-Hsin disclose the locking element and locking protrusions recited in claim 61. The references therefore collectively fail to teach all of the recitations of claim 61, and claim 61 is accordingly patentable over Lu '459 in view of Tsai or Hung-Hsin. When the recitations of claim 73 are considered in combination with the recitations of claim 61, claim 73 is likewise submitted to be patentable over Lu '459 in view of Tsai or Hung-Hsin.

Applicants accordingly request that the rejection of claims 60 and 73 be withdrawn.

D. Conclusion

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Bruce T. Atkins, Reg. No.: 43,476
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070